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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,616	10/05/2001	Joseph E. Kaminkow	0112300-456	4615

29159 7590 01/21/2004
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EXAMINER

NGUYEN, BINH AN DUC

ART UNIT PAPER NUMBER

3713

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/972,616

Applicant(s)

KAMINKOW, JOSEPH E.

Examiner

Binh-An D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 36-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 and 44-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-48 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The Information Disclosure Statement and the Preliminary Amendment filed in Papers No. 3 and 4, respectively, May 9, 2002 have been received. Acknowledgment has been made.

Election/Restrictions

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species S1: claims 1-35.

Species S2: claims 36-43.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 44-48 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

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are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. During a telephone conversation with Mr. Adam Masia on September 29, 2003 a provisional election was made without traverse to prosecute the invention of Species S1, claims 1-35. Affirmation of this election must be made by applicant in replying to this Office action. Claims 36-43 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-20 and 21-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15, the recited terms of "the credits" (line 8) and "said credits" (lines 9 and 12) lack antecedent basis.

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Further, in claims 21 and 25, the recited terms "said credit" (claim 21, lines 15-16, and 18) and "said credits" (claim 25, line 2) lack antecedent basis.

Note that, these terms should be changed to "the at least one credit" or "said at least one credit."

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-35 and 44-48, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Payne et al. (6,241,607) in view of Luciano et al. (US 2001/0041610).

Payne et al. teaches a gaming system comprising: a plurality of reels; a plurality of paylines associated with said reels (fig.2); and means for enabling a player to wager at least one wager (credit), activates more than one of the paylines (or plays) for a wager (3:57-60); wherein the wagering means includes means for enabling the player to select said paylines (or plays) for each wager (4:12-17; fig.2a); means for indicating the activated paylines (or plays)(Fig.2a); the number of paylines (or paylines per credit) are two or more (3:18-55); means for enabling the player to wager a plurality of credits (wagers) (3:61-4:28); activate all the paylines (or plays) for each wager wagered (via payline selection entered by player)(3:57-6 and fig.2); provide to the player a winning outcome for each activated payline, displaying each of the winning outcomes (4:20-23

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and fig.2a (item 58)). Note that, although the limitation of processor controlling reels and gaming operations has not been explicitly mentioned by Payne et al., it is however inherent in electronic gaming apparatus since such a processor would necessarily be present for the device to function.

Payne et al. does not teach the limitations of at least one credit wagered; a fraction of said credit wagered is wagered on each activated payline (or play)(claims 1, 15, 21, 28, 31, 34, 35, 44, and 48), and wherein the processor is adapted to provide to the player a winning outcome for each activated payline (or play) that is a multiple of said fraction of said credit wagered on each activated payline (or play)(claims 1, 15, 21, 31, 34, 44, and 48); wherein said wagering means includes means for enabling the player to wager a fraction of each of a plurality of credits on said paylines (claims 3 and 22); means controlled by the processor for indicating a total of the fractions of each of said credits wagered on each activated payline (or play)(claims 6, 18, and 47); means controlled by the processor for issuing a redeemable ticket which includes credits and fractions of credits (claims 11, 19, and 26); means enables the player to wager unequal fractions of said credits wagered on said activated paylines (claim 25). Luciano et al., however, teaches a voucher gaming system and method (figs. 1-3) comprising at least one credit wagered; a fraction of said credit wagered is wagered (paragraph numerals 13, 15, 42, 46, 73-76, and 82-84), and a processor (48) is adapted to provide to the player a winning outcome that is a multiple of said fractions of said credit (paragraph numerals 82-85); wherein said wagering means includes means for enabling the player to wager a fraction of each of a plurality of credits (paragraph numeral 82); means

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controlled by the processor for indicating a total of the fractions of each of said credits wagered (paragraph numerals 82-85); means controlled by the processor for issuing a redeemable ticket (voucher) which includes credits and fractions of credits (paragraph numerals 48); means enables the player to wager unequal fractions of said credits (paragraph numerals 20, 42, 43, and 83-85).

Note that, the limitation of means controlled by the processor for crediting a card with credits and fractions of credits (or lower currency denominations) (claims 12, 20, and 27) is notoriously well known in the gaming industry, e.g., cashless machines or machines with card reader.

Regarding the limitation of a total the fraction of each of said credits wagered on each activated payline is the credits wagered divided by the number of activated paylines (claim 9), it would have been obvious for a person of ordinary skill in the art to apply the teaching of Payne et al., in which a player places one wager to cover all available paylines (3:59-60), with a simple math calculation to approximate an average of a fractional value for each payline of Figure 7, e.g., a wager of \$1 for 20 paylines would cost each payline $1/20$ of a dollar or \$.05 or 5 cents. Further, regarding the limitation of said processor decreases the fraction of the credit wagered on each payline as the number of activated paylines increases (claims 10 and 31), it would have been obvious to proportionally increase or decrease the average value wagered on each payline as the total wager value stays unchange while the number of activated paylines decrease or increase.

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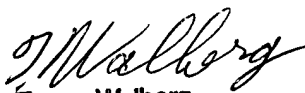
It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide Luciano et al.'s method of wagering fractions of a credit to the multiple payline gaming system of Payne et al. to provide a gaming system capable of allowing the user to modify different credit values to be played in a multiple wagering game thus attract more game player and increase profit.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

BN


Teresa Walberg
Supervisory Patent Examiner
Group 3700